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Report of the Working Group on the Universal Periodic Review*

Greece

Addendum

Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review

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Greece welcomes the recommendations made in the course of its Universal Periodic Review on 3 May 2016 and would like to provide the following responses with regard, mainly, to the recommendations contained in para. 136 of the Draft report of the Working Group on the Universal Periodic Review.

136.1, 136.2 Greece **accepts** these recommendations. The Greek government is considering initiating the examination procedure to possibly ratify ILO Convention 189.

136.3 Greece **cannot accept** this recommendation. Protocol no. 12 to the Council of Europe Convention for the Protection of Human Rights and Fundamental Freedoms the European has been ratified by a relatively small number of CoE member states (19 out of 47 States). Many states have expressed concern that the ratification of this Protocol would further increase the already heavy workload of the Court. In any case, the non-ratification of this Protocol has not created a gap in the protection against discrimination. In fact, the European Court of Human Rights has widely interpreted the scope of the rights guaranteed by the Convention, thus ensuring the application of the relevant article 14 ECHR in practically all non-discrimination cases.

136.4, 136.5 Greece **cannot accept** these recommendations. Greece recognizes that the Council of Europe Framework Convention for the Protection of National Minorities has proved to be an extremely useful tool for the Council of Europe Member States, in their efforts to ensure the protection and promotion of the rights of persons belonging to minorities. It should be noted, however, that States have at their disposal a variety of tools to achieve this goal. The ratification and implementation of minority rights instruments requires legal and political assessments and choices to be made as to what forms and modalities the protection of persons belonging to minorities should take, depending on the particular national circumstances. It should be stressed that the existing and recognized minority in Greece, the Muslim minority in Thrace, is fully protected by the provisions of the 1923 Treaty of Lausanne as well as of the human rights treaties to which Greece is as party. Thus, the lack of ratification of the Framework Convention has not led to the emergence of a "protection gap" in the field of minority rights.

136.6 Greece **accepts** this recommendation. Redefining the role and responsibilities of the National Observatory for the Rights of Children, and its operation overall, will be examined in the framework of the National Action Plan on the Rights of the Child in a more targeted and practical approach to the potential work of the Observatory.

136.7 Greece **accepts** this recommendation. Greece has adopted and implements and enforces all the sanctions, measures, restrictions and prohibitions mandated in UN Resolutions and EU Resolutions and Regulations in force pertinent to transactions, transfers of goods and services and business activities.

136.8 Greece **accepts** this recommendation. It is to be noted that measures have already been taken to combat hate speech, such as the adoption of Law 4285/2014 amending Law 927/1979, as well as the establishment of the National Council against Racism and Intolerance (Law 4356/2015). Challenges, however, remain with regard to the implementation of the relevant legislation.

We wish to clarify, with regard to the reference to "minorities", that in Greece, only one group of persons is qualified as a "minority", namely the Muslim minority in Thrace, consisting of three distinct groups, whose members are of Turkish, Pomak and Roma origin. The status of the Muslim minority in Thrace was established by the 1923 Treaty of Lausanne, which qualifies this minority as a religious, not a national one. Relying on solid and objective legal and factual grounds, Greece does not recognize other groups as "minorities". However, the members of groups which are not officially recognized as "minorities", for lack of objective criteria, fully enjoy their rights under the relevant human rights treaties.

136.9 Greece **accepts** this recommendation, to the extent that the latter concerns discriminatory treatment (and not racist crimes) in the fields mentioned therein. It is to be noted that the legislation on equal treatment and the fight against discrimination is already being amended to enhance its effectiveness.

136.10 Greece **accepts** this recommendation. On the use of the term "minority", we refer to our comments on recommendation 136.8 hereabove. It is also to be noted that the anti-discrimination legislation is currently being amended and that the responsibilities of the Ombudsman pertaining to the investigation of alleged cases of discriminatory treatment will be strengthened. Furthermore, the recently established National Council against Racism and Intolerance is designing strategies to combat hate speech made in the media, and by public officials.

136.11. Greece **accepts** this recommendation. Same-sex couple relationships have already been statutorily recognised by means of Law 4356/2015 on the new Civil Partnership Pact, thus fully guaranteeing the protection of family life. The Hellenic Republic will consider the possibility of instituting the marriage of same-sex couples and the joint adoption of children by them, in the context of a comprehensive review of the family law.

136.12 Greece **accepts** this recommendation **insofar as** it concerns the establishment of an independent mechanism to investigate allegations of torture by police officers. Greece is ready to establish an independent mechanism to investigate allegations of abuses by Police, Coast Guard and prison staff. A relevant draft law has already undergone public consultation and is pending to be tabled before Parliament. According to the abovementioned draft, the Office of the Ombudsman will be responsible for the investigation of ill-treatment incidents allegedly committed by law enforcement and detention facilities personnel.

The **second part** of this recommendation **is already being implemented**.

136.13 Greece **cannot accept** this recommendation, insofar as the reference to the prohibition of the detention of minors is too broad. In fact, Greek law on juvenile justice provides that minors are sentenced to imprisonment only if they have committed homicide or rape and if they are above the age of 15.

On the issue of the detention of unaccompanied minors, we would like to refer to our comments on recommendation 136.26.

Furthermore, Greece cannot accept this recommendation, insofar as it relates to decriminalization of child beggary, because, in this case, criminal liability lies with the parents, the guardian or whoever exercises custody of the child.

136.14 Greece **accepts** this recommendation. With regard to the construction of a mosque in Athens, and as well known, all the appropriate measures have already been taken and the Prime Minister has only recently reaffirmed the country's commitment in this direction. In August 2016, Parliament adopted provisions with a view to accelerating the construction of the Mosque. Furthermore, in Thessaloniki during the Holy Month of Ramadan, and upon request, a mosque opens and the State ensures the presence of an Imam.

136.15, 136.16 Greece **cannot accept** these recommendations. According to Law 3421/2005, persons who, for reasons of conscience, refuse to fulfill their military service, invoking their religious or ideological beliefs, recognized as conscientious objectors, are required to perform alternative service. As regards the duration of the military service, the less onerous nature of civilian service justifies a longer duration than that of military service. The duration of alternative service is within reasonable limits and proportionate, not of excessive character in comparison to military service.

136.17 Greece **cannot accept** this recommendation, since, under national law, defamation is considered a crime with a particular criminal demerit.

136.18. Greece **accepts** this recommendation and wishes to stress the following. Freedom of association is fully protected, without discrimination. All persons are free to declare their origin, speak their language, exercise their religion and observe their particular customs and traditions. There is no specific legislation on the establishment of associations by persons claiming to belong to a "minority", the general provisions of the Civil Code being applicable in this respect. The decision to register any association falls within the exclusive remit of the courts.

The Greek Government is considering appropriate ways and means to implement the judgments of the European Court of Human Rights which have found a violation of the freedom of association.

With regard to the case of the so-called "Home of Macedonian Civilization", it is to be noted that the inclusion of the qualifier "Macedonian" in the statute of the said association creates confusion as to the aims to be pursued by this association, since the same qualifier is used by hundreds of other associations established by Greek Macedonians, which, however, use the adjective "Macedonian" to denote the regional and/or cultural provenance of their members and not a distinct national identity. Such confusion, which also creates problems of public order and infringes upon the human rights of others, could have been avoided if the founders of the said association had used a name for the latter which corresponds to their Slav-oriented identity.

It is significant that, in the abovementioned case, the European Court explicitly rejected as manifestly ill-founded the applicants' complaint that the disputed decision of the court was based on discriminatory grounds. The Court considered the case in question as a freedom of association case, not as a dispute involving minority rights or discrimination on the ground of association with a national minority.

In any case, the registration by the competent courts of an association does not imply the existence or official recognition by a State of a particular group as a "minority".

136.19 Greece **cannot accept** this recommendation, **to the extent that** it refers to the recognition of the Roma as "minority". In fact, Greek Roma constitute an integral part of the Greek population; they are Greek citizens and enjoy full citizenship rights, as well as all civil and political, economic, social and cultural rights. However, they are not considered as a minority, but as a social group in vulnerable situation. In fact, the Roma themselves, through their representative organizations, have refused to be considered as a "minority". The challenges facing the Roma can be tackled through the design and implementation of social policies and programs and not on the basis of ethnic criteria, since the Roma themselves do not wish to rely upon such criteria.

Greece **accepts** the second part of this recommendation, which refers to the improvement of standards in housing, education and health care. In fact, the Greek authorities have adopted and are implementing special (positive) measures and actions in the abovementioned fields, taking into consideration the specificities and the particular characteristics and lifestyle of the Roma.

136.20 Greece **accepts** this recommendation.

136.21 Greece **cannot accept** this recommendation, to the extent that it refers to "setting specific deadlines" for the adoption of measures to increase the representation of women.

136.22 Greece **accepts** this recommendation. On the use of the term "minorities", we refer to our comments on recommendation 136.8 hereabove. Furthermore, in Greece's anti-racism legislation, more severe penalties have been introduced in case of crimes

committed on account of the race, colour, national or ethnic origin, descent, religion, disability, sexual orientation, gender identity or gender characteristics of the victim.

136.23 Greece **accepts** this recommendation. The Greek Roma are covered by the framework of human and civil rights as the rest of the Greek population. This includes access to education, which practically entails that the leading legal documents on access to education make no particular mention on Roma children. Thus, Roma children are entitled by law to the same schooling (and as a result to the same measures to cover education-related expenses) as all other Greek citizens. Nevertheless, the Ministry of Education has continued to apply additional proactive measures and special programmes considering the prejudice or exclusion, as well as the particular needs, which Roma children might face during their schooling.

136.24 Greece **accepts** this recommendation.

136.25 Greece accepts the first part of the recommendation.

Greece, however, **cannot accept the second part of the recommendation.** In accordance with relevant EU legislation, there is not an "automatic judicial examination of return decisions"; there is, however, an automatic judicial examination of detention decisions of returning third country nationals (Article 30 of Law 3907/2011) and detention decisions of asylum seekers (article 46 of Law 4375/2016). Third country nationals may lodge the quasi-judicial appeal provided by Article 77 of Act 3386/2005, against return decisions issued by police authorities. Against return decisions incorporated in decisions rejecting the request to grant or renew a residence permit, as well as in decisions revoking a valid residence permit, third country nationals are entitled to appeal under Article 24 of the Administrative Procedure Code. Administrative bodies responsible for deciding on the appeals lodged under paragraph 1 have the power to review, ex officio, both the legality and the merits of return decisions and temporarily suspend their implementation. Judicial and provisional legal protection against return decisions is provided by Act 3900/2010. Moreover, the Ombudsman has been appointed as an external control mechanism for return procedures (Article 23 of Act 3907/2011).

136.26. Greece **accepts** this recommendation. An ongoing effort for the transferring of unaccompanied minors to open accommodation facilities is already taking place successfully, whereas the number of available places for unaccompanied minors is about to increase from 800 to 1400 by the end of September. In addition, new 'safe zones' inside camps are being created for unaccompanied minors (4 already operating in existing camps with total capacity of 150 minors) with a plan for further increasing accommodation capacity for unaccompanied minors by creating more than 10 new 'safe zones' inside camps.

Moreover, Greece would like to comment on the following recommendation, which **did not enjoy its support**.

137.16. The Greek Government is considering appropriate ways and means to implement three judgments of the European Court of Human Rights finding a violation of Article 11 of the ECHR, including potential legislative adjustments in order to make possible the reopening of the relevant domestic procedures. In fact, full implementation is still pending, due to procedural reasons identified by the competent national courts, not related to the statute or the activities of any particular association.

The Committee of Ministers of the Council of Europe, which is examining the execution of the above judgments, stated in March 2016 that it took note with interest of the information provided by the Greek authorities about the forthcoming establishment of a special structure responsible for the execution of the Court's judgments and that it decided to resume consideration of this question in March 2017 at the latest in order to make a

substantive assessment of the developments. A draft law, which has already been submitted to open, public consultation, provides for the creation of such a structure.

Also, the European Court delivered in December 2015 its judgments that dismissed two new cases brought before it by two of the aforementioned three minority associations based on alleged new violations of the freedom of association, finding that Greece had not committed such further violations.

In any case, the competent domestic courts have already harmonized their practice with the relevant European Convention standards.

It must be stressed that in Thrace there is a thriving civil society comprising a large number of Muslim minority associations and NGOs that have been registered by the competent courts and operate unimpeded, thus preserving, highlighting and promoting all aspects of the cultural, educational and economic life of this minority. For instance, more than 50 minority associations have been registered, since January 2008. The courts decide ad hoc on every application of NGOs associations for registration.

The abovementioned associations have not been "outlawed": one association has been dissolved, while the other two purported associations were not registered. Furthermore, it is not accurate to claim that the associations were not registered on the grounds that they had the word "Turkish" in their title. Recently, an association was registered, in the title of which the word "Turkish" was used to denote the mother language of its members ("Sports and Cultural Association Solidarity-Development of Greek citizens of Muslim religion having Turkish as their mother language").